

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:09-CR-216-8FL

UNITED STATES OF AMERICA, :
 : GOVERNMENT'S RESPONSE
v. : TO DEFENDANT'S MOTION
 : TO REVEAL
ZIYAD YAGHI : (D.E. 850)

The United States of America, by and through the United States Attorney for the Eastern District of North Carolina, hereby files this response to the defendant's motion to reveal, and states unto the Court:

I. STATEMENT OF THE CASE AND FACTS

YAGHI moves the Court to require the government to produce: concessions, deals, or inducements with potential witnesses; criminal records of witnesses; and information about any previous testimony they may have given. D.E. 850, pp. 1 and 2. All such requests fall within the law, but are premature at this time. The motion should be denied.

II. ARGUMENT

In the Motion to Reveal, YAGHI is requesting material which Brady/Giglio would require be disclosed. Indeed, monetary payments to confidential human sources was disclosed on February 12, 2010, and will be updated with subsequent payments, if necessary. Additionally, other inducement/concessions has been disclosed. There is no dispute or controversy for the Court to resolve at this time.

The Fourth Circuit does not provide a time specific for

provision of such information to defense, but rather requires the disclosure be made "in time for its effective use at trial." United States v. Smith Grading & Paving, 760 F.2d 527, 532 (4th Cir. 1985). Usually, such evidence is handed over in this district by local practice one week before trial. Part of the reason for proximity to trial, of course, is that most such information is applicable only to witnesses the government intends to use at trial, and the decision as to which witnesses are to be used at trial is extremely fluid until close to the time of trial. The Government is aware of its obligations under Brady v. Maryland, 373 U.S. 83 (1963), and United States v. Giglio, 405 U.S. 150 (1972), and its duty to disclose impeachment evidence and Jencks Act materials, and will timely do so. It has disclosed payment information and other inducement information, and will disclose criminal records, charging or sentencing concessions, and previous, relevant testimony in time for the defendant to make use of the information at trial. As the government is aware of its obligations under the law, and has been fulfilling its obligation, defendant's motion should be denied.

III. CONCLUSION

For the above-stated reasons, the defendant's motion to reveal should be denied.

Respectfully submitted this 14th day of March, 2011.

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CERTIFICATE OF SERVICE

This is to certify that I have this 14th day of March, 2011, served a copy of the foregoing upon counsel for the defendants in this action by electronically filing the foregoing with the Clerk of Court, using the CM/ECF system which will send notification of such filing to:

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